IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Criminal Application No.2678 of 2007

The Union of India — Applicant
Vs.
K.Ramesh & ors. — Respondents

Mrs.Poornima Kantharia, Special P.P. for applicant.
Mr.S.R.Shinde, APP for Resp.no.3-State.

CORAM: B.H.MARLAPALLE, J.

August 21, 2007.

P.C.

. Heard Mrs.Kantharia, the learned Special Prosecutor for the applicant - Union of India. The applicant is seeking leave to appeal under Section 378(3) of Cr.P.C. against the order of acquittal passed by the learned Special Judge for NDPS cases at Greater Mumbai on 13/2/2007 in NDPS Special Case No.95 of 2004. By the said order the accused no.1 has been convicted for the offence punishable under Section 21(c) read with Section 8(c) of the NDPS Act and has been sentenced to suffer RI for ten years and to pay a fine of Rs.1,00,000/-, in default to suffer RI for one year. Accused no.2 has been acquitted of all the offences i.e. under Section 21(c) read with Section 8(c), Section 29 read with Section 21(c), Sections 28 and 30 of the NDPS Act. At the same time

the accused no.1 also has been acquitted of the offences punishable under Section 29 read with Section 21(c), 28 and 30 of the NDPS Act. The Union of India, therefore, seeks to challenge the acquittal of the accused no.1 under Section 29 read with Section 21(c), 28 and 30 of the NDPS Act whereas the acquittal of accused no.2 from all the charges.

. I have gone through the reasoning set out by the learned Special Judge and more particularly about the acquittal of accused no.2 from all the charges and of accused no.1 from the offences punishable under Section 29 read with Section 21(c), Sections 28 and 30 of the NDPS Act. It is clear that the accused no.2 was arrested in connection with another case and while interrogating him, he admitted that 1 Kg. of heroin was supplied by him to the accused no.1. At the same time the accused no.1 in his statement recorded under Section 67 of the NDPS Act, had stated that two boxes containing heroin supplied to him by accused no.2 and except these inculpatory statements, there is no corroborative evidence regarding the involvement of accused no.2 in the offences charges. Hence the reasoning set out by the learned Special Judge in the clean acquittal of accused no.2 calls

for no reconsideration at the hands of this Court. Once the accused no.2 is acquitted, the element of conspiracy under Section 29 of the NDPS Act on the part of the accused no.1 would be of no significance and the Special Court rightly acquitted the accused from the said charge.

. Hence there is no case made out to grant leave to appeal. The application is rejected and leave to appeal is refused.

(B.H.MARL